

**COMMITTEE ON LIMITED JURISDICTION COURTS
MINUTES**

Wednesday, February 18, 2009
10:00 am to 3:00 pm
State Courts Building
Conference Room 119 A/B
1501 W. Washington Street
Phoenix, AZ 85007

MEMBERS PRESENT:

Honorable Antonio Riojas
Honorable Ted W. Armbruster
Honorable Phillip W. Bain
Mr. C. Daniel Carrion
Honorable Thomas L. Chotena
Ms. Faye Coakley
Honorable Timothy Dickerson
Ms. Joy Dillehay
Honorable Maria Felix
Honorable Sam Goodman

Mr. Patrick Kotecki
Honorable Nicole Laurin – telephonic
Honorable Dorothy Little
Honorable Kathy McCoy
Ms. Marla Randall
Ms. Lisa Royal
Mr. Mark Stodola
Honorable J. Matias Tafoya
Honorable R. Michael Traynor - telephonic

MEMBERS ABSENT:

Honorable Jeffrey A. Klotz

PRESENTERS/GUESTS:

Dori Ege
JL Doyle
Brett Watson
Cliff Ford
Michael Jeanes
Patience Huntwork

Karl Heckart
Jim Price
Kay Radwanski
Jerry Landau
Mike DiMarco

STAFF:

Mark Meltzer

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I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the February 18, 2009 meeting of the Committee on Limited Jurisdiction Courts (LJC) was called to order by Judge Antonio Riojas, Chair, at 10:04 am.

Judge Riojas introduced two new members, Judge Maria Felix and Sergeant Patrick Kotecki and welcomed them to the Committee.

B. Approval of October 1, 2008 Minutes

The minutes for the October 1, 2008 meeting of the LJC were presented for approval.

MOTION: To approve the minutes of the October 1, 2008 LJC meeting as presented. Seconded. Passed unanimously. LJC-09-001

II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

A. Interstate Compact and Probation Supervision of Adult Misdemeanor Offenders

Dori Ege presented an overview of the rules of the Interstate Compact for Adult Offender Supervision, and explained some of the existing challenges to ensuring an effective operation of the process, particularly with respect to offenders out of limited jurisdiction courts. To that end, Ms. Ege requested feedback from this Committee on some of the following points:

- Recommended solutions to provide for the successful transfer of LJC eligible offenders under the interstate compact.
- Should offenders out of LJC be supervised by superior court probation officers?
- Should a standard condition about the interstate compact for probation be included in LJC probation terms
- Is this solely a training issue for LJC?

After lengthy discussion, it was suggested that a workgroup be formed with representation from limited jurisdiction courts from around the state to conduct an in-depth exploration of this multi-faceted issue. Several members of this Committee volunteered to participate in such a work group, including Lisa Royal, Marla Randall, and Daniel Carrion.

MOTION: To form a workgroup staffed by the Adult Probation Services Division, to include members of the Committee, as well as representatives from the Maricopa Justice Courts, Chandler Municipal Court, and Tucson City Court. Seconded. Motion passed unanimously. LJC-09-002

Ms. Ege also provided the National Interstate Compact website, which is located at www.interstatecompact.org. This website provides additional information and resources for those interested.

B. ACJA §§ 6-204, 6-204.01, 6-106, 6-202.01, and 6-205

Dori Ege, JL Doyle, and Cliff Ford from the Adult Probation Services Division presented the following proposed code sections:

ACJA § 6-204: Interstate Compact Probation

Ms. Ege presented proposed changes to ACJA § 6-204, which are necessary because of rule amendments that became effective January, 2008. The changes are non-substantive and simply add two new terms in the definitions section, and some minor language changes to provide clarification.

MOTION: To approve ACJA § 6-204: Interstate Compact Probation as presented. Seconded. Motion passed unanimously. LJC-09-003

ACJA § 6-204.01: Evidence-Based Practices, Interstate Compact Probation

Ms. Doyle briefed the committee on proposed changes to code section 6-204.01. The recommended changes are necessary due to the roll-out of the evidence-based practices for probation. The changes would effectively bring together the interstate compact code and the standard probation code, so that incoming interstate compact offenders on probation in Arizona would be supervised under the evidence-based requirements.

MOTION: To approve ACJA § 6-204.01: Evidence-Based Practices Interstate Compact Probation as presented. Seconded. Motion passed unanimously. LJC-09-004

ACJA § 6-106: Personnel Practices

Ms. Doyle presented proposed changes to ACJA § 6-106, that would eliminate the requirement for mandatory testing when an employee is involved in an accident in a state vehicle, if the officer on scene does not have reasonable suspicion that the driver is under the influence of alcohol or other substance. The change does not preclude any chief or director from requiring drug testing on their own reasonable suspicion.

MOTION: To approve ACJA § 6-106: Personnel Practices as presented. Seconded. Motion passed unanimously. LJC-09-005

ACJA § 6-202.01: Evidence-Based Practices, Adult Intensive Probation

Ms. Doyle presented proposed revisions to ACJA § 6-202.01: Evidence-Based Practices Adult Intensive Probation. The proposal was previously approved by this Committee in November 2008. However, due to concerns by various counties that medium risk offenders were excluded from the proposal, it did not go to AJC. The code section presented today would include medium risk offenders under the intensive probation supervision program.

MOTION: To approve ACJA § 6-202.01: Evidence-Based Practices, Adult I Intensive Probation as presented. Seconded. Motion passed unanimously. LJC -09-006

ACJA § 6-205: Drug Treatment and Education Fund

Clifford Ford presented proposed revisions to ACJA § 6-205 which would bring the code in line with evidence-based principles with regard to assessments and evaluations for substance abuse treatment.

MOTION: To approve ACJA § 605: Drug Treatment and Education Fund as presented. Seconded. Motions passed unanimously. LJC-09-007

C. Implementation of Defensive Driving School Program

Joan Harphant, Chair of the LJC Defensive Driving Subcommittee, and Nancy Swetnam, Certification & Licensing Division Director reviewed the 2007 – 2008 legislation regarding the defensive driving program (effective January 2009), and the post-implementation issues. Discussion focused on the following:

- Problems with the seven day deadline for course completion prior to arraignment. Some courts have voiced concern regarding workload issues. Committee members were asked if they had or were aware of problems with this requirement and if an alternative plan should be considered. Committee consensus was that the seven day requirement should remain in place.
- Schools now required to transmit court fees twice weekly (per ACJA § 7-205) have reported this creates a burden for them. Ideas for possible alternative methods were requested.
- Courts that have existing contracts with primary provider schools should have cancelled those contracts. The AOC should be notified if there is an inability to cancel a contract, however, there are still courts that have not fulfilled this requirement.

Ms. Swetnam also noted that a letter was sent out to courts earlier this week on the provision that allows courts to increase their court diversion fee October 1st and April 1st of each year. She requested that courts complete the form enclosed with the letter, and indicate whether their fees will be increased on April 1, 2009. Ms. Swetnam states this information is critical to providing appropriate notice to the schools in advance of that date. Courts can send the form by email or fax.

Ms. Harphant asked members to send any comments or concerns to her regarding the program, at Joan.Harphant@tucsonaz.gov, prior to March 26, 2009 so they can be addressed at the next subcommittee meeting.

D. Report from Advisory Committee on Supreme Court Rule 123 & Data Dissemination

Honorable Michael Jeanes, Clerk of the Maricopa County Superior Court, and Chair of the Rule 123 & Data Dissemination Committee, provided an overview of the committee, which completed its examination of Rule 123 concerning access to judicial records. The committee filed its rule recommendations in January 2009 and will reconvene in April 2009 to review and address comments received on the Rule Petition. The committee is seeking feedback on the proposed changes and requested members provide their formal comments on the Court Rules Forum by April 1, 2009.

E. Rule Changes Update

Patience Huntwork, AOC Legal Services Division, provided an update on existing and pending rule change that would impact limited jurisdiction courts. Members can find the rules and related information at <http://www.supreme.state.az.us/rules/>.

F. Update on the Criminal Rules Video-Conference Advisory Committee

Judge Riojas discussed the establishment of the Criminal Rules Video-Conference Advisory Committee (CRVAC) and its charge to review issues raised by R-06-0016, which concerns the appearance of defendants via video-conferencing in criminal proceedings. The committee expects it will provide its recommendations to the Arizona Judicial Council (AJC) in June 2009.

G. Update on E-Filing Initiative

Jim Price, Information Technology Division, outlined the statewide e-filing initiative. He explained the Administrative Office of the Courts has contracted with a vendor, Intresys, who is providing the product, which will serve all courts and all case types. The infrastructure of the e-filing system will be maintained by the AOC. Initial pilot courts, Maricopa superior and justice courts, are expected to begin accepting filings in the Summer of 2009. Appeals courts should begin implementation in the Fall, followed by all other courts. The long term goal is to have e-filing occur electronically from the user to the court, populating its case management system. Currently, Intresys has provided services to a few large municipalities in California, New York, and Florida, with its TurboCourt e-filing application. Mr. Price gave members a brief online demonstration of the steps to filing a case on the TurboCourt website (<http://www.turbocourt.com/>), and suggested they peruse the site to get an understanding of the features and resources an e-filing application can provide.

H. Protective Orders and Public Access Case Look-up

Kay Radwanski, AOC Court Services Division, addressed the committee on the issue of accessibility of protective order case information on the Public Access case look up site on the Arizona Judicial Branch Webpage. Currently, plaintiff information is not published on the site, however, the Committee on the Impact of

Domestic Violence (CIDVC) recently discussed removing defendant and case history information. Three alternatives emerged to address the matter: 1) remove all protection order case information from the web page; 2) limit access to those cases for which there was a contested hearing and at which the order was affirmed or modified; or 3) leave the information (defendant information and case history) on the web page as currently published. A recommendation for one of the three alternatives was requested.

MOTION: To support removing all protection order case information from the webpage. Seconded. Approved unanimously. LJC-09-008

I. Legislative Update

Jerry Landau, Director of Governmental Affairs, reported on pending legislation that would impact limited jurisdiction courts. The following bills were highlighted:

HB2215: Traffic Citations; Payments; Reinstatement Fees

This is still being worked through with MVD due to concerns voiced by courts regarding the proposed process of allowing an individual to come into court, pay off the violation as a default, and then pay the court for the reinstatement fee to MVD, which the court would forward to MVD, presumably lifting the driving suspension. But, there may be other factors in place for which the suspension is still in place. This places added burden on the courts.

HB2382: Traffic Violations; Fees, Court Retention

This bill was proposed by a lobbyist for some of the defensive driving schools and is different than what it appears to be on the surface. It would provide for the defensive driving school to receive only their portion of the fee, while all other fees, fines, forfeitures, and civil penalty payments go to the court. This would result in a tremendous work load on the courts, cities, and counties. Mr. Landau stated that once official word is received from the AOC, an opposition to the bill would be filed. If it goes to a hearing, some court administrators may be asked to testify as to the difficulties courts would face if the bill passed.

SB1247: Victim's Rights; Hearing; Fees; Status

Members were asked to look at this bill, and if any cost or time implications for the courts are observed, to email Jerry Landau at JLandau@courts.az.gov with that information. The bill would permit a victim to request a special hearing and to be heard at the hearing whenever a motion is filed asking the court to consider the post-arrest release of a juvenile or modification of conditions for release. The proposal directs the court to assess a \$25 fee against the parent of a delinquent for all dismissed or amended charges involving a victim if the juvenile enters into a plea for any criminal offense and is adjudicated delinquent or is diverted to a community based alternative program or a juvenile diversion program.

SB1333: Administrative Orders; Applicability; Judges

This bill would prohibit the Court from issuing an administrative or court order that would limit or restrict a judge's issuance of an:

- order of protection
- injunction against harassment
- arrest warrant
- search warrant
- electronic surveillance order

This bill will be opposed.

Mr. Landau also informed the Committee that at this time, the House is hearing bills, however, the Senate is not. Further, he noted the target date for the 2010 budget is late March.

J. ACJA § 5-205 Collections

Mike DiMarco, Court Services Division, presented the new ACJA § 5-205, concerning collections, which codifies Administrative Orders 97-57, 2003-126, and 2005-129, all of which deal with the FARE program. He stated there are no significant changes in the new section, but implementing the new section will bring the program as it exists currently, into compliance with the establishing Administrative Order.

MOTION: To approve ACJA § 5-205 Collections with discretion given to the FARE program to continue to address language in this section regarding civil filing fee deferrals. Seconded. Passed unanimously. LJC-09-009

III. OTHER BUSINESS

A. NEXT MEETING:

Wednesday, May 20, 2009

State Courts Building

Conference Rooms 345 A/B

10:00 a.m. – 3:00 p.m.

B. Good of the Order/Call to the Public

No public response.

The meeting was adjourned at 2:43 p.m.